

**STATE FIRE PREVENTION COMMISSION
MINUTES
December 15, 2022**

Members Present: Edward S. Tochterman, Chairman
Kevin Simmons, Vice Chairman
Emily Devan
Mark Bilger
Randy Sanger
Daniel Stevens
Stacy Welch

Members Absent: Douglas Alexander
Michael Faust

The Fire Prevention Commission held a public meeting December 15, 2022, at 10:00 a.m. at the Maryland State Police Headquarters in Pikesville.

Chairman Tochterman called the meeting to order. The Pledge of Allegiance was recited.

FIRE MARSHAL REPORT

Fire Marshal Brian Geraci introduced command staff that were present: Deputy Chief Fire Marshal (DCFM) Nelson, Southern Region; DCFM Stevens, Lower Eastern Shore; DCFM Duane Svites, Bomb Squad Commander; and Chief Fire Protection Engineer (CFPE) Ken Bush.

To date in 2022 there have been 59 fire related deaths reported in Maryland—43 in residential occupancies, 9 in vehicle collisions involving fire, and 7 in other settings. There have been three multiple-fatality residential fires in 2022. Five causes of death are pending the medical examiner's determination. Further information can be found at <http://mdsp.maryland.gov/firemarshal>.

Only three companies still need to submit Maryland Fire Incident Reports for Fiscal Year 2022 (July 2021 to June 2022). All reports for Calendar Year 2021 have been received. 508 fund distribution is based on compliance with submitting reports on a fiscal year basis. Commissioner Bilger reported that in his travels to various meetings throughout the State, he is unaware of any company or county not receiving 508. Fire Marshal Geraci advised that if the Commission wants to look further into how the law is enforced and how the funds are distributed or withheld, it would have to inquire to the Secretary of Emergency Management, who is responsible for the funds.

Deputy Fire Marshal (DFM) Jeffrey Thomas, Lower Eastern Shore Region, has been assigned an ATF accelerant dog, Deacon. Deacon is a yellow lab. K-9 Winston has retired. The Lower Shore now has three K-9s. ATF is being contacted about a dog for the Western Region. The Maryland State Fire Marshal's Office has a good partnership with ATF. ATF provides the dogs at no cost and the OSFM pays for the food and veterinary services.

The Fire Explosive Investigation Advisory Work Group (FEIAWG) met in November. A minimum training program for fire and explosive investigators is being developed to include the Maryland Police Training Commission (MPTC) entry level police certification, the National Fire Academy (NFA) or Maryland Fire and Rescue Institute (MFRI) fire/arson investigator course, an interview & interrogation course, a post-blast investigation course, and training on fireworks familiarization. The Work Group is recommending that the International Association of Arson Investigator's Fire Investigator Technician (IAAI-FIT) certification be obtained within two to four years of employment and that this Certified Fire Investigator (IAAI-CFI) certification be obtained within five to eight years for any Public Fire Safety Investigator position, and that the certification be maintained while in that position. The Fire Marshal requested the Commission discuss and make a motion on the recommendation. The discussion was tabled until after the Fire Marshal completes his report.

Several agency personnel participated in the "Shop with a Cop" program this year and the agency's Alumni Association helped a family on the Lower Shore that was impacted by fire.

The Fire Marshal reported he had a heart attack in October and had a stint placed in an artery. He will be retiring after next year. He also recently got married and has a new grandson.

Regarding the Garrett County Fire Marshal, information was received on two lodging and rooming houses that are not in compliance with the State Fire Prevention Code. The owners are being notified of the code requirements.

The Headquarters human resources position was recently filled by an employee coming from State Police. She will help with the hiring process, promotions, and personnel matters. She worked with State Police recruitment so she is familiar with the process and has several degrees. A part-time contractual engineer has been hired for the Western Regional Office.

The Fire and Life Safety Information Exchange Program website is www.mdlifesafety.org and the OSFM blog site is <http://mdosfm.wixsite.com/blog> where fire fatality data and sprinkler and smoke alarm saves can be reported.

OTHER BUSINESS

A lengthy discussion took place on the FEIAWG training and certification recommendations which the group was tasked to do by the Commission a few years ago. Commissioner Stevens represents the Commission on the group and November's meeting was his first since being appointed to the Commission. Commissioner Alexander previously served as the representative but was replaced due to his recent health issues. It is unclear to Commissioner Stevens what problem the group is trying to fix since most fire investigators have Pro Board certification as a minimum and may also have the International Fire Service Accreditation Congress certification. The DFMs in Maryland have a very high closure and conviction rate so obviously they are doing a good job. Fire Marshal Geraci explained that the IAAI certification is the gold standard would be good on curricula vitae when testifying in court against defense attorneys who use private professional investigators with CFI certification. The goal of the recommendations is to set a higher standard; these will not be required certifications. The agency, not the employee, bears the cost for training and certification. Commissioner Stevens feels a cost benefit analysis would be appropriate before accepting the recommendations. Commissioner Bilger commented that if these certifications are considered the gold standard, a defense attorney could argue a deputy doesn't meet the gold standard if he does not have the certifications since they are only recommendations. Consideration should also be given to continued future costs if budgets are cut. The Fire Marshal stated he may decide to make them requirements for all new employees. The training division would then ensure the employees get the needed training to become certified and that they continue to receive needed training to recertify every five years. The Fire Marshal advised he has always encouraged the deputies to get training and certifications. The new NFPA 1321 standard that is coming out will require certification. Once an employee has attended a NFA or MFRI class, they can be IAAI-FIT certified right away. The CFI certification requires additional classes and education and is based on points. An employee can get points for having a degree, teaching a fire investigation course, writing articles on fire investigations, etc. The Fire Marshal reiterated these would not be requirements for existing personnel but would be required for new personnel. He also intends to meet with all the other fire investigation agencies throughout the state to discuss training and certifications. If the Commission would recommend that this be the standard, then it would give some credence to the endeavor. Commissioner Welch thinks the additional training and certification would be good to build the reputation and resume for both the agency and its employees. Commissioner Welch asked if the employees are resisting the idea to which Fire Marshal Geraci allowed his command staff to speak. DCFM Stevens is not aware of any resistance. He is certified through the Pro Board and has testified as an expert in two counties as well as in federal court. He is CFI certified through the Pro Board and FIT certified through IAAI. He is not aware of anyone in the agency being CFI certified through IAAI. Some deputies are certified through the National Association of Fire Investigators. If the court qualifies you as an expert witness, then it shouldn't matter which organization issued the certification. DCFM Stevens stated he was not familiar with the curriculum the IAAI-CFI test entails. Assistant Attorney General Baron questioned how many cases were lost because the deputy didn't have these certifications, to which

DCFM Stevens responded that while cases have been lost, it would be hard to determine if it was because of the type of certification. DCFM Svites feels the training and certification process should be discussed further internally with OSFM staff. He is Pro Board certified and has never lost a case. He feels it comes down to the investigator doing a good job, not necessarily the credentials. As Commissioner Welch previously stated, he feels having training and certification recommendations is always good for the agency and employee and there could be some benefits to having a minimum statewide standard. His Pro Board certification did not involve any testing but an accumulation of various experience, knowledge, and training, unlike the IAAI-CFI which is a test. Based on Fire Marshal Geraci's request that the Commission consider the Work Group's recommendations, Chairman Tochtermann entertained a motion to that measure. Commissioner Welch, while she personally supports it in principle feels the Commission needs more research and education on the topic before making a decision. The Fire Marshal stated the Work Group was formed at the request of the Commission and it includes public fire safety investigators, a University of Maryland professor, MFRI staff, the director of MPTC, and an IAAI certified ATF investigator. If the Commission can't rely on the group's expertise, then who is there to rely on to make training and certification recommendations. It was noted the Work Group did not provide a written report for the Commission's review. The Work Group did discuss some alternatives but what is being discussed today is its recommendations. With all due respect to Fire Marshal Geraci, several Commission members advised they were not aware of the Work Group's efforts until they were recently contacted by Commissioner Stevens about it. Commissioner Alexander who originally was the Commission's representative on the Work Group had been unable to attend its meetings due to health issues. Commissioner Stevens replaced him as the representative and only attended his first meeting in November at which he became aware of the Work Group's recommendations and desire to move forward with implementation. Commissioner Bilger feels the Commission has the responsibility to thoroughly consider any recommendations and not automatically rubber stamp it. He would not be in favor of voting today on any motion to accept the recommendations. Commissioner Sanger remarked that he is inclined to support it but motioned that the matter be tabled until the next meeting. Second by Vice Chairman Simmons, unanimously carried. Commission members can visit the various certifying organizations' websites to learn more on their processes.

Vice Chairman Simmons inquired about the Baltimore City bomb squad and if the State bomb Squad was still providing such services in the city. Fire Marshal Geraci reported they are moving forward with training five people but it takes 18 months to get into the Huntsville Hazardous Devices School. DCFM Svites, Bomb Squad Commander, added that he recently had a meeting with the National Advisory Board to Bomb Squad Commanders and it is their understanding that the FBI has recertified the Baltimore City bomb squad with one person. The national guidelines clearly indicate that there is a minimum of two bomb technicians to be certified as a bomb squad. So the National Advisory Board is looking into how that occurred. The FBI reportedly has three applications on file for Baltimore City and the three persons have started the one-week on-line class. It is a five-week remote class with one week on-line. Baltimore City still has one certified bomb technician who has applied and once you do that the FBI will grant you a 365-day extension to your certification. The other applications are pending.

CHIEF FIRE PROTECTION ENGINEER REPORT

CFPE Bush elaborated on the Western Region Fire Protection Engineer (FPE) contractual position. He is a Fire Protection Engineering graduate from the University of Maryland and has worked for Frederick City for many years. He has a background in code enforcement work and fire protection in general and should be able to start performing plan reviews right away. One person was interviewed for the full-time engineer position but the agency has not been able to contact him to follow-up for the next step. The position will continue to be advertised for further applicants. The other part-time FPE contractual position has not been filled and is still being advertised.

One of the functions of the OSFM is to maintain a list of agencies which are permitted to accredit testing laboratories. A request was received from the ANC-National Accreditation Board in November and was reviewed and found to be acceptable to accredit testing labs in Maryland. It is now listed on the OSFM website. It accredits over 2,500 different organizations in 80 countries and has an extensive background. It is a non-profit, fully owned subsidiary of the American National Standards Institute.

The online NFPA code update training for the 2021 editions of NFPA 1 and NFPA 101 had almost 500 attendees for the two dates in November. NFPA advised they will provide certificates of attendance. If anyone needs one they should contact NFPA. It went very well for the first time doing it virtually. There were a few glitches the first day but they were worked out. Commissioner Bilger attended the second on-line session and found it informative with ample opportunity to ask questions.

As an update to the Maryland Stadium Authority projects, FPE Harry Bradley advised they are working on the new stadium in Hagerstown and six high schools. Four of the schools are renovations in Baltimore City and two are new construction in Montgomery County. They will be handled as State projects and will come through the OSFM as the fire code authority. In addition, the so-called millennial type projects are being assigned to about 28 or 29 different schools in different areas of the State. Negotiations are still underway as to whether they will be handled by the Stadium Authority or local officials. As details are worked out, the OSFM could be involved with some of those projects.

CHAIRMAN'S REPORT

The individual in the State Police who advised the 2021 Fire Prevention Code could start being enforced because it had been submitted to the AELR committee has not been identified by Secretary Ritchie. Fire Marshal Geraci advised it was Chief of Staff James Hock. The Chairman solicited confirmation from Assistant Attorney General Susan Baron that it could not be enforced since it has not been approved by the AELR committee and published in the Maryland Register as an emergency regulation. Ms. Baron confirmed that is correct. Supposedly it is to be published in the Maryland Register tomorrow. As emergency regulation, Fire Marshal Geraci confirmed it can only be adopted for 180 days. The emergency regulation action is under the authority of the Secretary of State Police and not the Commission. Ms. Baron advised that with certain exceptions, the Secretary has the authority to do things the Commission can do and can promulgate regulations for the Commission. Since the Secretary has taken responsibility to take over the regulations, Ms. Baron advised there is nothing more the Commission can do. Ms. Baron has not been requested to review them for legality, and assumes that the Attorney General's Office for the State Police is doing that since it is a requirement. Commissioner Bilger stated he is extremely disappointed with the State Police and its leadership who basically have ignored the Commission or have the Commission involved with the process. Prior to this, the State Police also ignored the Commission's recommendation regarding the appointment of a Fire Marshal when Fire Marshal Geraci's first term expired, leaving that position in limbo. The lack of leadership not only affects the Commission and the OSFM but also every jurisdiction in the State of Maryland and the other State agencies that interact with the State Fire Prevention Code. Local adoption work is being held up because of the delay in adopting the updated State Fire Prevention Code. With the election of the new Governor the leadership at the State Police will undoubtedly be changing. Chairman Tochtermann reiterated his concern that the responsibilities of the Commission are being politicized. Commissioner Bilger expressed his support for the leadership Chairman Tochtermann has shown in dealing with Commission issues.

Chairman Tochtermann noted that after Commissioner Bilger's second term expires, the Commission will need a representative on the Mid-Atlantic Life Safety Conference steering committee. Anyone wishing to volunteer should let the Chairman know. Commissioner Bilger reported the 2023 conference will be held on September 19th at the Johns Hopkins Applied Physics Laboratory. The steering committee will be meeting in January to start working on the 2023 program.

Motion by Vice Chairman Simmons to approved the October minutes, second by Commissioner Sanger, and unanimously carried.

Chairman Tochtermann acknowledged the presence of Mischelle Vanreusel, Acting Deputy Commissioner with the Maryland Department of Labor, Division of Labor and Industry. Ms. Vanreusel introduced the Commissioner of Labor and Industry, Matthew Helminiak. The Department is proceeding with the adoption of the most recent 2021 International Building Codes and other related codes. The proposal includes some changes that were suggested by CFPE Bush. The proposed amendments are currently being reviewed by the AELR Committee and will be published in the Maryland Register for public comment prior to final adoption. The Division oversees the Maryland OSHA program, wages and hours, boilers, elevators, amusement rides, railroads, and building codes. It was mandated by legislation

last year to adopt heat stress standards for workers, which are challenging regulations to promulgate. Working with industry, industrial hygienists, chemists, and biologists, some feasible regulations have been proposed and are on hold for additional review by the AELR Committee, which has not yet provided feedback. There was a lot of opposition from grassroots organizations who had requested the original legislation and wanted more stringent standards, more defined pay breaks, and no exemptions for emergency services personnel. The proposed regulations do exempt emergency services personnel.

Ms. Vanreusel reported Division's Maryland OSHA (MOSH) unit also regulates the fire departments in Baltimore City and has issued a hazard alert letter to them in response to the three firefighter fatalities. Basically this means there were no standards for what occurred on that site. MOSH also has the ability to issue a general duty violation to employers who are required to provide a workplace free from recognized hazards to prevent fatalities and serious injuries. It is a difficult threshold to meet and the hazard alert letter helps to set a threshold. Baltimore City appears to be taking steps to make improvements. She invited any comments or suggestions from anyone. The letter was shared with all the jurisdictions. MOSH authority exists where there is an employee/employer relationship. The benefits given to volunteer fire service personnel may place them in a position as being an employee. It would have to be considered on a case-by-case basis. For clarification, the letter was initially addressed to Baltimore City but since the letter was produced, it could affect every fire and EMS service in Maryland, either career or certain volunteer units. The letter makes it cleaner going forward. Dealing with empty buildings is challenging and needs to be dealt with. Chairman Tochtermann suggested she may want to approach the Maryland State Firemen's Association and review the letter with them and how it affects the volunteer service. Ms. Vanreusel understands they have already received a copy and that historically there is tension between volunteers and paid and there is also a lot of misinformation.

Ms. Vanreusel thanked CFPE Bush for connecting her with FPE Bradley and the Stadium Authority in dealing with safety and health inspection challenges at the new schools' construction. Things worked out well and the assistance is appreciated.

There being no further business, motion by Vice Chairman Simmons to adjourn, second by Commissioner Devan, and unanimously carried.

Next Meeting: Thursday February 16, 2023 — 10:00 am.
Location: To Be Determined

Respectfully submitted,
(as summarized from transcript provided by Hunt Reporting),



Heidi Ritchie, Secretary